

**Board Meeting Minutes
November 14, 2003**

**Board for Professional Engineers and Land Surveyors
2535 Capitol Oaks Drive #300
Sacramento, California 95833
(916) 263-2222**

Friday, November 14, 2003

Board Members Present: Gregg Brandow (President), Arthur Duffy, James Foley, David Fruchtman, Robert Jones, William Roschen, Millicent Safran, Cindy Tuttle, Elizabeth Warren, Michael Welch, Dale Wilson, and Edward Yu.

Board Members Absent: William Schock

Board Staff Present: Cindi Christenson (Executive Officer), Gary Duke (Legal Counsel), Susan Ruff (Liaison Deputy Attorney General), Nancy Eissler (Attorney General Liaison Analyst), Debbie Thompson (Budget Analyst), Janeece Sargis (Examination Analyst), Eileen Crawford (Staff Civil Engineer/Licensing Program Manager), and Joanne Arnold (Enforcement & Legislative Programs Manager).

Public Present: See Attached

1. Roll Call to Establish a Quorum

The meeting was called to order by President Brandow at 9:15 a.m. Roll call was taken, and a quorum was established. Mr. Duffy arrived at 9:20 a.m.

President Brandow presented a proclamation to former Board Member Andrew Hopwood.

President Brandow administered the oath to reappointed Board Members Arthur Duffy and Michael Welch.

2. Public Comment

Mr. Greenlaw said that he has been attending Board meetings for 20 years.

Mr. Greenlaw stated that he was pleased that the Executive Officer had referred a complaint case to the Division of Investigation and that he is sure the investigator turned over all stones and interviewed all percipient and expert witnesses.

Mr. Greenlaw stated that he was contacted by plaintiffs Lawrence Karp and Peter Petrovsky regarding their lawsuits against the Board. Mr. Greenlaw stated that when he asked Mr. Karp what the lawsuit in San Francisco was about, Mr. Karp said the San Francisco action was against the Sacramento Superior Court judge for not timely disclosing a conflict of interest. Mr. Greenlaw stated that he had a long conversation with Mr. Petrovsky but is still not clear on what is going on now. Mr. Greenlaw stated that he does not know anything about the other two lawsuits. Mr. Greenlaw stated that he thinks the Board should give an unbiased summary of all the lawsuits since the documents are filed in open court and are not privileged. He does realize that the Board's discussions with its attorneys are privileged, and he is not asking for that information.

Mr. Greenlaw encouraged the Board to take a more supervisory role with Board staff, especially in their dealings with the public, consumers, and licensees.

Mr. Greenlaw stated that the Board should make sure that no accusation against a licensee goes forward without seriously looking at all information provided by the licensee.

Mr. Greenlaw also encouraged all new Board members to view things from an independent perspective and to not quash their own views just to get along with other Board members.

Mr. Foley clarified that his comments at a previous meeting regarding his dealings with staff applied to his contact prior to being on the Board, when he was at the City of San Jose. Mr. Foley stated that staff was always professional, well informed, and helpful, whether at outreach meetings or when contacted about licensure issues.

Mr. Greenlaw responded that his dealings with staff under those circumstances have also been exemplary. He stated that he is talking about staff's dealings with the public when there is a challenge to investigate or to be receptive to constructive criticism.

President Brandow advised that items would be taken out of order because of the petition hearing.

7. **Approval of Consent Items (Possible Action)**
a. **Approval of the Minutes of the September 25 & 26, 2003, Board Meeting**

MOTION: Mr. Wilson/Ms. Safran moved to approve the minutes of the September 25 & 26, 2003, Board Meeting, with the correction to the spelling of Ms. Safran's last name in the minutes.

VOTE: 11-0, motion carried. Mr. Foley was not present for the vote.

8. **Approval of Delinquent Reinstatements.**

MOTION: Ms. Safran/Ms. Tuttle moved to approve the Delinquent Reinstatements as follows:

Civil

1. **Greg Armendariz**

Reinstate applicant's civil license once he takes and passes the Seismic Principles Examination, the Engineering Surveying Examination, the Board's Laws and Rules Examination, and pays all required delinquent renewal fees.

2. **Jimmy Shou**

Reinstate applicant's civil license once he takes and passes the Seismic Principles Examination, the Engineering Surveying Examination, the Board's Laws and Rules Examination, and pays all required delinquent renewal fees.

3. **Billy Thomas**

Reinstate applicant's civil license once he takes and passes the Seismic Principles Examination, the Engineering Surveying Examination, the Board's Laws and Rules Examination, and pays all required delinquent renewal fees.

Mechanical

1. **Melchor E. Berona**

Reinstate applicant's mechanical license once he takes and passes the Board's Laws and Rules Examination and pays all required delinquent renewal fees.

2. **Horacio A. Viarnes**

Reinstate applicant's mechanical license once he takes and passes the Board's Laws and Rules Examination and pays all required delinquent renewal fees.

VOTE: 11-0, motion carried. Mr. Foley was not present for the vote.

9. Comity and Temporary Authorization Applications (Possible Action)

MOTION: Mr. Wilson/Ms. Safran moved to approve the Amended Handout Comity List.

VOTE: 12-0, motion carried.

6. Election of Vice-President (Possible Action)

President Brandow reported that the Board will vote for Vice-President at the next Board meeting.

President Brandow stated that traditionally the office of Vice-President has alternated between a Professional Member and a Public Member, but that could change if the Board wants to elect a more senior member.

MOTION: Mr. Foley/Ms. Tuttle moved to appoint Ms. Safran and Mr. Wilson to the nominating committee.

VOTE: 9-1-1, motion carried. Ms. Safran, nay; Mr. Wilson abstained.

10. Title Act Study Report & Task Force (Possible Action)

President Brandow reported that the Title Act Study Task Force met on November 13, 2003, and are in the process of working on recommendations to present to the Board at the January 2004 Board meeting.

Mr. Markuson, representing CELSOC, commented that it appears that the Task Force is making progress, and he compliments the members.

President Brandow commented that the first two Task Force meetings were intended to be "fact finding" meetings and that comments were received from the public and considered by the Task Force at those meetings.

3. **Hearing on the Petition for Reduction of Penalty of Paul Christopher Ehe [OAH No. 2003100052]** The hearing on the Petition will begin at 9:30 a.m., or as soon thereafter as the matter may be heard.

The Board heard the Petition for Reduction of Penalty of Paul Christopher Ehe and then met in Closed Session to decide the matter.

4. **Closed Session**

The Board went into closed session at 11:30 a.m.

Mr. Fruchtman left at 1:45 p.m.

5. **Open Session to Announce the Results of Closed Session**

Ms. Christenson reported that the Board discussed pending litigation as noticed, specifically, Lawrence B. Karp v. Board for Professional Engineers and Land Surveyors, et al., San Francisco Superior Court Case No. 402996; Ladislav Peter Petrovsky v. Board for Professional Engineers and Land Surveyors, Los Angeles Superior Court Case No. BS080673; Michael William Foster v. Board for Professional Engineers and Land Surveyors, El Dorado Superior Court Case No. PC 20030492; and Michael Laroue v. Board for Professional Engineers and Land Surveyors, et al., Court of Appeal, Second Appellate District, Division Two, Case No. B163358 (Los Angeles Superior Court Case No. BS076838).

Ms. Christenson reported that the Board adopted the appeal results of the April 2003 Professional Land Surveyor examination.

Ms. Christenson reported that the Board adopted the stipulation regarding Val Eugene Pizzini.

Ms. Eissler reported that the Board had decided the matter of the Petition for Reduction of Penalty of Paul Christopher Ehe and that Administrative Law Judge Leonard Scott, who presided at the hearing, will prepare the written decision of the Board for the signature of Board President Brandow. The written decision will then be served on the parties.

7. **Approval of Consent Items (Possible Action)**

- b. **Approval of Candidates for Certification/Licensure. (Based on Examination Results, Including Successful Appeals, Adopted in Closed Session)**

MOTION: Mr. Foley/Mr. Wilson moved to approve candidates for licensure and certification based on examination results, including successful appeal results and take home examination results, approved in closed session.

VOTE: 11-0, motion carried.

11. Legislative

a. Discussion of Legislation for 2003, including but not limited to, AB 827, AB 1265, SB 31, SB 362, SB 364, and SB 1077 (Possible Action)

Mr. Duffy and Ms. Arnold reported on this item. Ms. Arnold provided a handout of AB 827 and advised that the wrong bill had been provided by the Capitol Bill Room. All of the bills that the Board supported were signed by the Governor.

b. Regulation Status Report

Ms. Christenson reported that the LSIT experience requirements regulation will probably need to be discussed by the LSTAC at a meeting and that Kristy Underwood, a new Board employee, would be helping with this regulation.

Ms. Christenson also reported that due to lack of staffing, all regulation packages have been delayed.

12. Examination/Qualifications

a. NCEES Banned Calculator List as it Applies to State Specific Exams (Possible Action)

MOTION: Ms. Safran/Mr. Foley moved to accept the NCEES calculator policy banning the calculators listed on the August 27, 2003, NCEES news release for the administration of the NCEES examinations and to continue to enforce the Board's own calculator policy for the administration of the State-Specific examinations.

VOTE: 11-0-1, motion carried; Mr. Jones abstained.

13. Administration

a. Fund Condition (Possible Action)

Ms. Thompson reported on the changes to the fund condition dated October 20, 2003. Ms. Thompson indicated that the FY 2003-04 budget expenditure amount is now \$7,020,000 down from \$7,050,515. The reduced budget expenditure amount includes adjustments for the Board's mandated 12% personal services reduction plan.

b. FY 2003/04 Budget (Possible Action)

Based on slightly lower than projected costs for the October 2003 exam, Ms. Thompson reported that the Board will be able to move out of its \$10,872 projected deficit. Whatever is left in savings after the overall

deficit is absorbed will go to cover recent adjustments to the Board's budget that increased the personal services deficit for the 12% cut plan.

The FY 2003-04 budget at the beginning of the year was \$7,244,000, of which \$72,000 was cut for positions vacant longer than six months due to the freeze. Another \$182,000 in budget authority for temporary help, board member per diem, committee member pay, and 3.8 unused permanent position authority was added to make up the Board's required 12% personal services reduction plan. No employee layoffs have been necessary as all cuts were for vacant positions and/or unused partial position authority. Lastly, the Board received \$30,000 for the 5% general salary increases approved for some state employee bargaining units recently.

Ms. Safran asked if the Board had any money that the State could borrow for the General Fund deficit. Ms. Thompson stated that the Board has approximately \$2.5 million in reserves or 4.1 months. The Department of Finance recommends that boards maintain a 3 to 6-month reserve level. This is likely the reason why the Board has not had any funds borrowed. Ms. Thompson reported that an analysis of the Board's historical cost increases backs up the fact that the Board needs at least a 2-month reserve level at all times.

Ms. Christenson reported that the Legislature is concerned about the cuts. Included in the agenda package for Board members is a copy of the updated request from the Joint Legislative Sunset Review Committee. There will be testimony at the hearings scheduled for December 2003 from boards how the cuts have impacted them. Ms. Safran pointed out the Board should ensure the Legislature is aware that the backlog of Enforcement cases is directly related to the cuts in Enforcement.

c. Land Surveyor Contract (Possible Action)

Ms. Thompson reported that contract will go out for signature in the next couple of weeks and then to DGS for signature. Any contracts over \$50,000 must be signed by DGS.

d. FY 2004-05 Budget Change Proposal for NCEES Grading Fee Increases. (Possible Action)

Ms. Thompson reported that the BCP is at Department of Finance for review but they have not made their final decisions on BCPs yet.

**14. Technical Advisory Committee Reports
(No Committee Meetings were held.)**

a. Board Assignments to TACs (Possible Action)

No assignments were made.

b. Appointment of TAC Members (Possible Action)

MOTION: Mr. Duffy/Mr. Yu moved to appoint Denis Mulligan, Martin Eskijian, and Tim D'Orazio as members of the CETAC, terms to expire June 30, 2005, and to reappoint Webb Owen to a third term as a member of the CETAC, term to expire June 30, 2005.

VOTE: 11-0, motion carried.

15. Liaison Reports (Possible Action)

a. ABET

A handout from former Board member Andrew Hopwood regarding the ABET visit at the University of Southern California was provided.

Ms. Safran, the new ABET Liaison, reviewed the reports in the agenda.

Mr. Fruchtmann and Mr. Welch have upcoming ABET visits.

Ms. Warren reported that she had a very good experience at the University of San Diego.

Mr. Wilson reported that the University of California, Santa Cruz, has new fields of engineering being developed.

Mr. Stout commented that at ABET's Annual meeting the software engineering programs at four schools were approved by ABET.

b. NCEES

MOTION: Mr. Foley/Mr. Welch moved to nominate George Shambeck, Ted Fairfield, and Steve Lazarian for NCEES awards.

VOTE: 11-0, motion carried.

c. Technical and Professional Societies

No report given.

16. President's Report

President Brandow reviewed the new Committee membership assignments.

President Brandow stated that the Administrative and Enforcement Committees will meet on January 29, 2004, and that the Title Act Study Task Force will meet on January 28, 2004.

17. Executive Officer's Report

1. Administration Report

a. Executive summary report

No report given.

b. State budget

No report given.

2. Personnel

a. Hiring freeze

Ms. Christenson reported that the hiring freeze is still in effect.

b. Vacancies

Ms. Christenson reported that the Board was able to fill the position formerly held by Andrea Swan with Kristy Underwood from DCA.

3. Enforcement/Examination/Licensing

a. College Outreach

Ms. Crawford reported that NCEES sent pamphlets, T-shirts, and other items to handout at outreach programs. She reported that she had conducted outreach presentations at, Chico State, National Society of Black Engineers Conference, Anaheim, and Santa Clara University.

b. Report on Enforcement Activities

Ms. Christenson reported that there is a backlog of enforcement complaint investigation cases due to the hiring freeze.

c. Report on Examination Activities

Ms. Christenson reported on how the cell phone and digital watch policy was enforced for the October 2003 exam.

Ms. Christenson also reported on the power outage at the Pomona exam site due to the fires in Southern California and that the candidates were given additional time and were very understanding.

4. Publications/Website

a. Website Activity Statistics

No report given.

5. Sunset Review & Report

Ms. Christenson reported that the Joint Legislative Sunset Review Committee (JLSRC) is expected to provide the Board with any additional questions or issues by November 18, 2003, and that the hearing will be held on December 3, 2003.

Ms. Christenson reported that she and President Brandow will be giving the presentation and encouraged all Board members to attend.

6. Other

a. DCA update

Ms. Christenson reported that there is no official information regarding the transition or a new director.

Ms. Christenson reported that there is a mandatory Board member orientation on December 16, 2003, in Sacramento.

18. Approval of Board Travel (Possible Action)

No Board travel.

19. Other Items Not Requiring Board Action

a. Next Board meeting: January 29-30, 2004, Monterey, California

20. Adjourn

The Board adjourned at 3:20 p.m.

PUBLIC PRESENT

Tom Stout, CSPE

Steven Tietsworth, Center for Public Interest Law, University of San Diego

Carl C deBaca, CLSA

Steve Hao, CalTrans

Richard Markuson, CELSOC

Chuck Greenlaw, S.E.

Terri Parham

Chris Ehe, L.S.